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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,904	09/10/2003	Rosana Kapeller-Libermann	MPI00-010P1RCP1M	3441
30405	7590	10/04/2005	EXAMINER	
MILLENNIUM PHARMACEUTICALS, INC.			MONSHIPOURI, MARYAM	
40 Landsdowne Street			ART UNIT	
CAMBRIDGE, MA 02139			PAPER NUMBER	

1653

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,904

Applicant(s)

KAPELLER-LIBERMANN, ROSANA

Examiner

Maryam Monshipouri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5, 6, 12, 13, 15, 16 and 21-34 is/are pending in the application.
- 4a) Of the above claim(s) 12, 13, 15, 16 and 23-34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 6 and 21 is/are allowed.
- 6) ☒ Claim(s) 22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date filed 9/1/2005.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Applicant's response to restriction requirement filed 9/1/2005 is acknowledged.

Applicant elected Group II invention (claims 5-6) without traverse. Claims 1-4, 7-11, 14 and 17-20 are canceled. Claims 12, 15, 23-34 are withdrawn as drawn to non-elected invention.

In response to restriction requirement applicant requests rejoinder of withdrawn process claims which depend from or otherwise include all the limitations of the allowable product under MPEP section 821.04.

The examiner would like to point out that currently, the elected subject matter is not found fully allowable. Once the elected product is found fully allowable she would rejoin the dependent process claims which depend from said allowable product under MPEP section 821.04.

DETAILED ACTION

Claims 5-6, and newly added claims 21-22 are under examination on the merits.

Priority

It is noted that applicant refers to priority data underneath the title but said reference is not updated. Applicant is requested to update said data in response to this office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "V5" is unclear. Applicant is requested to firstly

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define and secondly write said term in full in claim 22, based on the support provided in the specification. Also the term "histidine residues" is indefinite. It is unclear as to whether applicant is referring to hexa-histidine tags or other histidine residues and how many residues he/she is referring to.

Allowable Subject Matter

Claims 5, 6 and 21 are allowed. This is because the expression products of SEQ ID NO:1 and 3 are free of prior art. Further, the prior art does not teach or suggest preparing such specifically claimed products. Hence, said products are also non-obvious. Since said products are allowable a fusion product comprising said products is also allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maryam Monshipouri whose telephone number is (571) 272-0932. The examiner can normally be reached on 7:00 a.m to 4:30 p.m. except for alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weber Jon P. can be reached on (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

~~M. Monshipouri~~

Maryam Monshipouri Ph.D.

Primary Examiner
